



Maricopa County Justice Courts

INFORMATION FOR SMALL CLAIMS CASES

This is your case. You have a responsibility to yourself and to the court to acquire a sufficient knowledge to complete the forms properly and to follow your lawsuit to conclusion. There are certain steps you must follow to pursue it properly. This information is provided to assist you in general procedure. You may also want to refer to the Arizona Revised Statutes (ARS) and Justice Court Small Claims Pilot Rules (ARSCP) for additional information. The statutes may be viewed online at <http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp> or may be found at your local library.

Clerk Duty The clerks in the Justice Court are not attorneys and cannot give legal advice. The clerks' responsibility is to take your court filing and to provide forms and explain court procedures. It is not the clerks' responsibility to advise you if you have a legal claim. The clerk is not responsible for any error you may make in asserting or defending the claim. The court does not take sides or render an opinion regarding the merits of a claim. **ARS 22-507**

Court Fees

Fees are payable at the time of the filing. Refer to the Court's posted schedule of fees. **ARS 22-281, 22-522**

Jurisdictional Limit The plaintiff may file for any amount not to exceed \$3,500.00. A larger claim may be reduced to \$3,500.00 and any remaining amount waived. A claim may NOT be split by filing two separate actions. The plaintiff may ask for reimbursement of court costs in addition to the \$3,500.00 maximum. Court costs include, but are not limited to filing and service fees. A prevailing defendant may also ask for reimbursement of court costs. **ARS 22-503A**

You may not file in Small Claims if

The case involves a claim of defamation by libel or slander. The case is for an eviction action. The case involves a claim for specific performance. The case is brought or defended on behalf of a class. The case requests relief by or involves prejudgment remedies. The case is seeking injunctive relief. The case involves traffic violations or criminal matters. The case is against this State, its political subdivisions or is against its officers or employees, acting in an official capacity. **ARS 22-503B**

Venue means the proper geographical area (precinct) in which a lawsuit may be filed. You must file the lawsuit where the defendant resides or does business or where the cause of the lawsuit occurred. **ARSCP 11**

Motion for Change of Venue A motion for change of venue is one of only two motions allowed in a small claims action. A motion for change of venue for improper venue must be filed 15 days prior to hearing. If a motion is filed alleging that the lawsuit is filed in the wrong precinct and the court orders a change of venue, the case will be transferred to the proper precinct. If you oppose a motion for change of venue you must file an objection in writing within ten days after mailing of the form. **ARSCP 11** Venue may be proper in more than one precinct, however if the original venue is found to be wrong, additional fees may be assessed to the plaintiff. **ARS 12-407**

Transfer to Regular Civil Division of Justice Court Either party may transfer a small claims case to the court's civil division up to TEN (10) days before the hearing date. The party requesting the transfer will be assessed filing fees. **ARSCP 12**

Attorneys An attorney cannot appear or represent either party in the small claims division unless:

- He/she is representing himself or herself.
- Both parties agree to the use of attorneys and file an Agreement To Use Of Attorneys, a form the court can provide. An agreement to use attorneys must be filed at least 24 hours before the scheduled court date. However, any party has the right to choose to be represented by counsel and may file a request to transfer the case to the civil division of the Justice Court for that purpose. The case will then be transferred to the civil division and appropriate fees charged to the party requesting the transfer.

After entry of judgment, the prevailing party has a right to employ an attorney to pursue available rights and remedies for the purpose of collecting the judgment award. **ARS 22-512B, C,D,E**

Parties The statutes governing small claims procedures set forth who may file a small claims action or appear or represent on behalf of such an action. **ARS 22-512A, B**

The plaintiff must be the original owner of a claim and may not sue on an assigned claim. However, after judgment a party may make an assignment of the judgment. **ARS 22-512**

An individual shall represent himself. Either spouse or both may represent a marital community. An active general partner or an authorized full-time employee shall represent a partnership.

A full-time officer or authorized employee shall represent a corporation.

An active member or an authorized full-time employee shall represent an association.

Any other organization or entity shall be represented by one of its active members or authorized full-time employees.

If you are representing a partnership, an association, or any other organization please provide the court with a letter stating your position and authority to represent an action on behalf of the partnership, association or organization.

If you are a full time employee representing a corporation please provide the court with a letter stating your position and authority to represent the corporation. The letter must be signed by a corporate officer.

However, any party has the right to choose to be represented by counsel and may file a request to transfer to the civil division or both parties may stipulate to allow the use of attorneys.

Complaint should include short and plain statements that include:

- court jurisdiction (\$3,500.00)
- court venue (XYZ Precinct)
- reason(s) for claim
- demand for judgment

Example

I am claiming damages against the defendant in the amount of \$3,500.00. (jurisdiction)

The defendant resides in the XYZ Precinct, (or, The lawsuit occurred in the XYZ Precinct). (venue) The defendant owes me money because ... (reason(s) for claim)

Wherefore, the plaintiff requests that the court enter judgment in his favor in the sum of ... (demand for judgment)

Methods of Service The plaintiff may serve the complaint, summons and notice by certified mail with a return receipt or by private process server. Service is deemed complete when proof of delivery to defendant is filed with the court.

Each named defendant must be served a copy of the complaint, summons and notice. (To ensure the named party defendant signs the return receipt, restricted delivery should be used).

If the postal service does not enter a date of delivery or the date is not legible, service is deemed complete on the date the return receipt is filed with the court. The plaintiff may file the return receipt (the green card) with the court in person or by first class mail.

If the defendant refuses to accept the mailing, or a person other than the named defendant signs for the registered or certified mailing, then service has NOT been properly accomplished.

If the defendant cannot be served by certified mail return receipt, personal service by a licensed process server must be used.

If the claim is against a corporation, the statutory agent, or an officer of the corporation must be served on behalf of the corporation named in the complaint. You may obtain the name and address of a statutory agent or corporate officer by calling the Arizona Corporation Commission 602-542-3026 or 1-800-345-5819.

You have 20 days to serve the complaint, summons and notice. **ARSCP 7d**

Service After Appearance A copy of all pleadings filed with the court must be mailed or delivered to the opposing party.

All parties must update the Court of change of address or contact information. A Contact Information Update form is available on the Justice Court Website: justicecourts@mcjc.maricopa.gov.

Dismissal The plaintiff may dismiss the claim at any time prior to defendant filing a counterclaim. Once the defendant has filed a counterclaim, both parties must stipulate to a dismissal (agree in writing). **ARSCP 18**

Filing an Answer The defendant may file an answer in writing and pay the answer fee. A filing fee is required. If you are unable to pay a filing fee, an application for waiver/deferral may be filed.

Filing a Counterclaim A counterclaim is a claim made by the defendant against the plaintiff. A counterclaim must be filed at least 10 days prior to the hearing. A counterclaim may be filed at the same time the answer is filed. If the defendant files a counterclaim and the amount claimed exceeds \$3,500.00, the court shall transfer the case to the civil division. If the court determines that the amount of the counterclaim in excess of the small claims jurisdiction was filed for the sole purpose of avoiding the small claims proceedings, the court may award the plaintiff court costs, plus reasonable attorney fees for defending the counterclaim. **ARS 22-517, ARSCP 10d**

Motions Only two motions are allowed in the small claims division: a Motion for Change of Venue and a Motion to Vacate Judgment (filed after a judgment). **ARS 22-505, ARSCP 11 and 17**

Hearing Officers Either a Justice of the Peace or an appointed Volunteer Hearing Officer may hear your case. Any party may object to the use of a hearing officer 15 days prior to the hearing date. The court can provide you with a form to make this objection. The case will then be heard by the Justice of the Peace. **ARS 22-506 ARSCP 14a**

Setting for Hearing The hearing will be set for a date within 45 to 60 days after filing of the complaint, summons and notice with the court. **ARSCP 7**

Request to continue Hearing Date If for some reason you find that you are unable to appear for hearing on the date and time scheduled, you may file a REQUEST FOR CONTINUANCE with the court, showing good reason why you are unable to appear. The Judge will consider the merits of your request and either grant or deny it. Continuances are granted only for the most serious reasons. The request for continuance must be in writing and should be filed at least 15 days prior to the hearing date. **ARSCP 14b**

The Hearing You cannot have your Small Claims case heard before a jury. **ARSCP 1d**

Bring to the trial anything necessary or relevant to establish or defend the claim or counterclaim. Examples: books, papers, bills, pictures of damages, or other exhibits. Both parties may also bring witnesses to testify in their behalf to substantiate your position. You will only be allowed a limited amount of time to present your claim or your defense.

Appeal You DO NOT have the right to appeal. The decision of the hearing officer or justice of the peace is final. If you wish to preserve your right to appeal, you may have the case transferred to the civil division of the justice court. You may do this at any time up to ten (10) days before the hearing. **ARSCP 1d and 12**

If you are awarded judgment The judgment is valid for five years from the date it is entered, if you chose to renew the judgment, the renewal must be filed within 90 days from the expiration. Refer to the court's handout COLLECTING A MONEY JUDGMENT.

Motion to Vacate the Judgment A motion to vacate a judgment is one of only two motions allowed in a small claims action. A motion to vacate judgment can be filed by either party to vacate a default judgment or a judgment of the court following a hearing. The motion must be mailed to the other party.

If you oppose a motion to vacate the judgment you must file a response in writing 15 days.

If the motion to vacate judgment is the defendant's first filing the defendant must pay a filing fee. If you are unable to pay a filing fee, an application for waiver/deferral may be filed. **ARSCP 17**

When paid in full the Judgment creditor must file a SATISFACTION OF JUDGMENT with the court. This form is available from the court. Visit us at justicecourts.maricopa.gov for additional filing information and online forms.